

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JAMAL REYES, *pro se*,

Petitioner,

-against-

THE STATE OF NEW YORK,

Respondent.  
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**ORDER OF DISMISSAL**  
08-CV-1679 (DLI)

**DORA L. IRIZARRY, U.S. District Judge:**

The court issued an order to show cause in this action on May 15, 2008.<sup>1</sup> Upon further consideration of the petition, and for reasons stated below, the court hereby vacates its order to show cause and dismisses the petition.

Petitioner Jamal Reyes, who is currently incarcerated at the United States Penitentiary in Atlanta, Georgia, filed this *pro se* action styled as a mandamus petition. For the reasons set forth below, his request to proceed *in forma pauperis* is granted, but the petition is dismissed.

Petitioner asks the court to compel the State of New York to enter a decision on his pending motion in the Criminal Court of New York. Petitioner does not offer any jurisdictional grounds upon which this court can grant the requested relief. Federal district courts have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to a plaintiff in a litigation. 28 U.S.C. § 1361. District courts are not authorized, however, to compel a state or state officials to perform a particular duty. *See Davis v. Lansing*, 851 F.2d 72, 74 (2d Cir. 1988) (“The federal courts have no general power to

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<sup>1</sup>This action was filed in this court by *pro se* petitioner on March 24, 2008 and was originally assigned to the Honorable Roslynn R. Mauskopf. By order dated April 25, 2008, Judge Mauskopf was recused and the matter assigned to the undersigned district judge.

compel action by state officials.”); *Lebron v. Armstrong*, 289 F. Supp. 2d 56, 58 (D. Conn. 2003) (“By its terms, the federal mandamus statute does not apply to an action to compel a state or state officials to perform a particular duty.”).

Accordingly, petitioner’s request for mandamus relief is denied and the petition is dismissed. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: Brooklyn, New York  
May 19, 2008

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/s/  
DORA L. IRIZARRY  
United States District Judge